

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN JOSE DIVISION  
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6 IN RE: HIGH-TECH EMPLOYEE )  
7 ANTITRUST LITIGATION )  
8 ) No. 11-CV-2509-LHK  
9 THIS DOCUMENT RELATES TO: )  
10 ALL ACTIONS. )  
11 \_\_\_\_\_ )  
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14 CONFIDENTIAL - ATTORNEYS' EYES ONLY  
15 VIDEO DEPOSITION OF MARK BENTLEY  
16 August 23, 2012  
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20 REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR  
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05:36:48 1 purposes of determining or setting employee

05:36:50 2 compensation?

05:36:51 3 MR. RILEY: Objection. Question is overbroad.

05:36:53 4 No foundation.

05:37:01 5 THE WITNESS: Do we set job levels for the

05:37:04 6 purposes of setting compensation?

05:37:07 7 MR. SAVERI: Q. Yes.

05:37:15 8 A. I believe it is -- it's one vehicle that we use

05:37:19 9 to ultimately determine that.

05:37:24 10 Q. Now, as a general matter, were changes made for

05:37:31 11 employee compensation through changes in job categories

05:37:35 12 or job classifications?

05:37:40 13 A. Can you please repeat that question.

05:37:41 14 Q. As a general matter, were changes made to

05:37:44 15 compensation for Apple employees through changes to job

05:37:47 16 categories or job classifications?

05:37:50 17 MR. RILEY: Objection. The question is vague.

05:37:52 18 No foundation.

05:37:55 19 THE WITNESS: I believe there may be

05:37:56 20 circumstances when that was the case. But I don't know

05:37:58 21 if that was a general practice.

05:38:01 22 MR. SAVERI: Q. Well, is it fair to say

05:38:04 23 that from time to time, persons move from one job

05:38:09 24 classification to another at Apple?

05:38:17 25 A. I'm not sure I follow your question.

05:38:18 1 Q. Well, when an employee came to Apple, were they  
05:38:22 2 put in -- were they assigned a job classification or job  
05:38:27 3 category?

05:38:29 4 A. I believe that would be the case.

05:38:31 5 Q. And was one way their salary was increased, or  
05:38:34 6 the compensation was increased, to be moved from one job  
05:38:38 7 level or job classification to another job level or job  
05:38:41 8 classification?

05:38:45 9 A. I would -- my understanding is that one  
05:38:48 10 would -- my interpretation of that is it's done through  
05:38:54 11 promotions and taking on more responsibility.

05:38:58 12 Q. And when someone was promoted, would they be  
05:39:01 13 promoted to a higher job classification or job category?

05:39:06 14 A. I believe so.

05:39:08 15 Q. And as a consequence of that, or in connection  
05:39:10 16 with that, if they were promoted, they would generally  
05:39:14 17 receive more compensation. Is that fair?

05:39:18 18 A. I believe that would be the case.

05:39:22 19 Q. From time to time, did Apple raise the  
05:39:25 20 compensation for a particular job category or job level?

05:39:33 21 MR. RILEY: Objection. Question is overbroad  
05:39:35 22 and there is no foundation.

05:39:43 23 THE WITNESS: I believe that that would be  
05:39:45 24 taken -- I believe if and when that was done, it was  
05:39:48 25 done on an annual basis during compensation planning.

05:39:53 1 MR. SAVERI: Q. So, for example, were  
05:39:54 2 there employees at Apple who received increases in  
05:39:58 3 salary, although they didn't receive a promotion to  
05:40:01 4 a different job category or job classification?

05:40:06 5 MR. RILEY: Objection. The question is  
05:40:08 6 overbroad and there is no foundation.

05:40:20 7 THE WITNESS: So I believe that that would  
05:40:22 8 occur with what we would call merit -- the merit time,  
05:40:28 9 or what other companies call focal period, which is done  
05:40:33 10 on an annual basis to keep up with inflationary  
05:40:37 11 conditions in the market. And that's not to say that  
05:40:40 12 all employees saw adjustments to their compensation.

05:40:46 13 MR. SAVERI: Q. Fair enough.

05:40:53 14 Do you know if the market survey information  
05:40:55 15 was used in considering whether or not Apple should make  
05:40:58 16 those changes to salary levels for particular job levels  
05:41:03 17 or job classifications?

05:41:06 18 MR. RILEY: Question is overbroad and there is  
05:41:08 19 no foundation. It's vague as to time.

05:41:13 20 THE WITNESS: Again, I believe it's a vehicle  
05:41:15 21 that was considered. How it was weighted, I can't tell  
05:41:21 22 you.

05:41:25 23 MR. SAVERI: Q. Going back to Exhibit 268,  
05:41:32 24 you, in your email to yourself, attach an email from  
05:41:39 25 Gilda Montesino to staffing. Do you see that?

05:57:59 1 MR. SAVERI: Q. Did Apple review the  
05:58:04 2 compensation levels or the amount of compensation  
05:58:07 3 for particular job titles or classifications on a  
05:58:10 4 regular basis?

05:58:13 5 MR. RILEY: Objection. The question is vague  
05:58:14 6 as to compensation.

05:58:22 7 THE WITNESS: So as the interim HR head, my  
05:58:25 8 specialty was recruiting. It was never my experience  
05:58:28 9 that we had issues with competing in the market with  
05:58:35 10 getting great talent because of compensation.

05:58:39 11 MR. SAVERI: Q. Well, was there ever a  
05:58:41 12 situation that you were aware of where Apple  
05:58:44 13 believed it had to increase salaries for particular  
05:58:47 14 job categories in order to stop or prevent attrition  
05:58:50 15 or departure from Apple?

05:58:54 16 MR. RILEY: Objection. The question is  
05:58:55 17 overbroad and there is no foundation.

05:59:00 18 THE WITNESS: There may have been situations  
05:59:02 19 where there were key employees that may have wanted to  
05:59:05 20 leave. And if -- depending on how important they were,  
05:59:12 21 that might have been considered.

05:59:18 22 MR. SAVERI: Q. Did Apple employees  
05:59:21 23 receive merit bonuses?

05:59:27 24 MR. RILEY: Objection. The question is vague.

05:59:30 25 THE WITNESS: I don't understand your question.

05:59:31 1 MR. SAVERI: Q. Well, did -- were Apple  
05:59:37 2 employees eligible to receive increased compensation  
05:59:41 3 based on merit or performance?

05:59:45 4 MR. RILEY: Same objection.

05:59:46 5 THE WITNESS: Again, I think it depended on the  
05:59:51 6 organization and the executive that was managing the  
05:59:56 7 organization as it related to how he or she used their  
06:00:01 8 discretion.

06:00:02 9 MR. SAVERI: Q. So is it fair to say that  
06:00:03 10 those managers or persons that you identified had  
06:00:05 11 discretion to award or provide bonuses or increased  
06:00:11 12 compensation for merit or performance?

06:00:13 13 MR. RILEY: Objection. The question is overly  
06:00:14 14 broad with regard to employee categories.

06:00:21 15 THE WITNESS: So from my vantage point, as the  
06:00:26 16 interim HR, merit -- annual merit eligibility and bonus  
06:00:31 17 were two different -- two different conversations, if  
06:00:35 18 you will. And it depended on the executive -- the  
06:00:40 19 executive's discretion.

06:00:42 20 MR. SAVERI: Q. Okay. Let's break them  
06:00:44 21 into pieces. With respect to merit, who  
06:00:48 22 determine -- well, can you describe the merit  
06:00:51 23 process.

06:00:56 24 A. The merit process is, I think, similar to many  
06:01:01 25 companies. [REDACTED]

06:01:07 1 [REDACTED]  
06:01:14 2 [REDACTED]  
06:01:22 3 [REDACTED]  
06:01:28 4 [REDACTED].

06:01:34 5 MR. SAVERI: Q. How did the bonus portion  
06:01:35 6 of compensation work? What was the process,  
06:01:37 7 generally, for determining that?

06:01:39 8 MR. RILEY: Objection. The question is overly  
06:01:41 9 broad and vague.

06:01:42 10 THE WITNESS: It's -- it varies greatly.

06:01:45 11 MR. SAVERI: Q. Okay. Who had -- were the  
06:01:47 12 particular persons or -- strike that.

06:01:50 13 Was the compensation committee responsible for  
06:01:54 14 determining bonuses?

06:01:56 15 MR. RILEY: Objection. The question is overly  
06:01:57 16 broad and vague.

06:02:01 17 THE WITNESS: The compensation committee, I  
06:02:03 18 believe, was responsible or had discretion over the  
06:02:07 19 executive team bonuses. But I do not know -- I don't  
06:02:12 20 think they had -- they weren't -- they were involved in  
06:02:16 21 approving a general framework, and that would then --  
06:02:19 22 for the lower levels it was up to the actual individual  
06:02:22 23 managers.

06:02:31 24 MR. SAVERI: Q. When a new employee is  
06:02:33 25 hired by Apple, how is the job title and the level

06:02:38 1 of compensation for that individual generally  
06:02:41 2 determined?

06:02:43 3 MR. RILEY: Objection. The question is overly  
06:02:45 4 broad and there is no foundation.

06:02:47 5 THE WITNESS: It depends on -- it depends on  
06:02:49 6 the functional discipline. Depends on the leveling, you  
06:02:54 7 know, if we're talking about the -- if we're talking  
06:02:57 8 about high volume recruiting, say, in retail or in our  
06:03:01 9 call centers versus the exec search team. It varied  
06:03:03 10 greatly.

06:03:05 11 MR. SAVERI: Q. Was the assignment of  
06:03:07 12 particular employees to job categories or job titles  
06:03:12 13 something that the HR department did, or the  
06:03:16 14 recruiting department?

06:03:17 15 Let me ask a better question. What --  
06:03:20 16 institutionally, who was responsible for assigning  
06:03:24 17 particular employees to particular job classifications  
06:03:29 18 or job categories?

06:03:31 19 MR. RILEY: Objection. The question is vague.

06:03:32 20 THE WITNESS: I'm not sure I understand your  
06:03:34 21 question specifically. I would answer that question by  
06:03:38 22 telling you that in many cases a requisition is created  
06:03:46 23 by a hiring manager. And it is at that time that that  
06:03:52 24 goes through a process, and then that requisition is  
06:03:55 25 then recruited against.



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2 Reporter licensed in the State of California, License  
3 No. 8249, hereby certify that the deponent was by me  
4 first duly sworn and the foregoing testimony was  
5 reported by me and was thereafter transcribed with  
6 computer-aided transcription; that the foregoing is a  
7 full, complete, and true record of said proceedings.

8 I further certify that I am not of counsel or  
9 attorney for either of any of the parties in the  
10 foregoing proceeding and caption named or in any way  
11 interested in the outcome of the cause in said caption.

12 The dismantling, unsealing, or unbinding of  
13 the original transcript will render the reporter's  
14 certificates null and void.

15 In witness whereof, I have hereunto set my  
16 hand this day: July 6, 2012.

17 \_\_\_X\_\_\_ Reading and Signing was requested.

18 \_\_\_\_\_ Reading and Signing was waived.

19 \_\_\_\_\_ Reading and signing was not requested.

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